

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the amendments above and the following remarks. By virtue of the foregoing amendments, Claims 54, 57, 62, and 67 have been canceled without prejudice or disclaimer of the subject matter contained therein. In addition, Claims 1, 12, 25, and 38 have been amended. Accordingly, Claims 1-4, 6, 12, 25, 38, 51-53, 55, 56, 58-61, 63-66, and 68-70 are pending in the present application.

No new matter has been presented by way of the claim amendments and such amendments are deemed unobjectionable. Entry thereof is thus respectfully requested.

Information Disclosure Statement

The Examiner's consideration of the information contained in the Information Disclosure Statement filed on October 31, 2003 is noted with appreciation.

Drawings

The indication that the Drawings submitted on October 31, 2003 are accepted is also noted with appreciation.

Allowable Subject Matter

The indication that Claims 53, 54 57, 62, and 67 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form is also noted with appreciation. By virtue of the amendments to the claims above, Claim 1 has been amended to include all of the features of allowable Claim 54, Claim 12 has been amended to include all of the features of allowable Claim 57, Claim 25 has been amended to include all of the features of allowable Claim 62, and Claim 38 has been amended to include all of the

features of allowable Claim 67. In this regard, it is respectfully submitted that Claims 1, 12, 25, and 38 are allowable over the cited documents of record.

As Claims 1, 12, 25, and 38 are the only independent claims in the present application, it is respectfully submitted that all of the pending claims are allowable over the documents of record. Accordingly, the Examiner is respectfully requested to allow this application.

Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Spinazzola et al. in view of Yamagishi et al.

The Official Action sets forth a rejection of Claims 1, 5, 52, 55, and 56 under 35 U.S.C. §103(a) as allegedly being unpatentable over the disclosure contained in U.S. Patent No. 6,412,292 to Spinazzola et al. in view of U.S. Patent No. 5,025,638 to Yamagishi et al.

This rejection is respectfully traversed because Spinazzola et al. and Yamagishi et al., considered in combination do not render independent Claim 1 unpatentable.

Claim 1 of the present invention, *inter alia*, includes the feature that the plurality of returns are independent of the racks. As stated in the Official Action, neither Spinazzola et al. nor Yamagishi et al. disclose at least this feature. Accordingly, it is respectfully submitted that Claim 1 and the claims that depend therefrom are allowable over the disclosures contained in Spinazzola et al. and Yamagishi et al. for at least this reason. The Examiner is thus respectfully requested to withdraw the rejection of Claims 1, 5, 52, 52, and 56 as being unpatentable over the disclosures contained in Spinazzola et al. and Yamagishi et al.

Spinazzola et al. in view of Yamagishi et al. and Nakazato et al.

The Official Action sets forth a rejection of Claims 3, 4, 6, and 51 under 35 U.S.C. §103(a) as allegedly being unpatentable over the disclosure contained in Spinazzola et al. in view of Yamagishi et al. and further in view of U.S. Patent No. 5,718,628 to Nakazato et al. This rejection is respectfully traversed because Spinazzola et al., Yamagishi et al., and Nakazato et al., considered in combination do not render independent Claim 1 unpatentable.

As stated above, neither Spinazzola et al. nor Yamagishi et al. disclose all of the features contained in independent Claim 1. In addition, Nakazato et al. does not make up for the deficiencies in Spinazzola et al. and Yamagishi et al. Accordingly, it is respectfully submitted that Claim 1 and the claims that depend therefrom are allowable over the disclosures contained in Spinazzola et al., Yamagishi et al., and Nakazato et al. for at least this reason. The Examiner is thus respectfully requested to withdraw the rejection of Claims 3, 4, 6, and 51 as being unpatentable over the disclosures contained in Spinazzola et al., Yamagishi et al., and Nakazato et al.

Nakazato et al. in view of Yamagishi et al.

The Official Action sets forth a rejection of Claims 12, 25, 38, 58-61, 63, 66, and 68-70 under 35 U.S.C. §103(a) as allegedly being unpatentable over the disclosure contained in Nakazato et al. in view of Yamagishi et al. This rejection is respectfully traversed because Nakazato et al. and Yamagishi et al., considered in combination do not render independent Claims 12, 25, and 38 unpatentable.

As stated in the Official Action, neither Nakazato et al. nor Yamagishi et al. disclose all of the features contained in independent Claims 12, 25, and 38. For at least this reason, it is respectfully submitted that Claims 12, 25, and 38 and the claims that depend therefrom are allowable over the disclosures contained in Nakazato et al. and Yamagishi et al. The Examiner is thus respectfully requested to withdraw the rejection of Claims 12, 25, 38, 58-61, 63, 66, and 68-70 as being unpatentable over the disclosures contained in Nakazato et al. and Yamagishi et al.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please

grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

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By



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